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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,718

01/13/2006

Jose Reyes

JJI.P.001US

5606

55701

7590

03/25/2009

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EXAMINER

SANDERS, KRIELLION ANTONETTE

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

03/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,718	<b>Applicant(s)</b> REYES, JOSE	
	<b>Examiner</b> Kriellion A. Sanders	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 106-117 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 106-117 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 106-114 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zhu et al. US Patent No. 6,090,316.

The patented invention is directed toward melamine and treated aluminum hydroxide blends and methods of making and using the same. The melamine powder is admixed with the treated aluminum hydroxide. This blend is preferably compounded with a polyolefin such as polyethylene, polypropylene, and blends thereof to confer desirable flame retardancy, tensile strength, elongation and impact strength. The treated aluminum hydroxide/melamine blend preferably comprises from about 10 to about 70 weight percent of the total polyolefin composition.

See col. 3, lines 32-65 and col. 1, lines 44-50.

The limitations of applicant's claimed invention are met by the patented invention.

Art Unit: 1796

3. Claims 106-114 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lindsay US Patent No. 5,409,976.

Lindsay et al discloses a flame-retardant additive comprising a source of phosphorus and a polymer or oligomer, P/N, having repeating units selected from those represented by general formulae (I) and (II) as set forth at col. 3.

The combination of the P/N compound and a second source of phosphorus is found to have a synergistic or super-additive effect on the level of flame-retardancy achieved for a given polymer system when compared with that obtained for each of the components used alone. The flame-retardant additives of the invention are prepared by blending the P/N compounds with an additional source of phosphorus.

The second source of phosphorus may comprise any inorganic or organic phosphorus source known in the art which (in the concentration used) does not deleteriously affect the properties of the polymer to which it is added. Preferred examples of the second phosphorus source comprise ammonium polyphosphate (commercially available under the trade name PHOSCHEK P-30 from Monsanto), melamine phosphate (commercially available under the trade name AMGARD NH from Albright and Wilson) and red phosphorus. The flame-retardant additives of the invention are compatible with a variety of polymers-applicable for wire and cable insulation, heat recoverable items, translucent films and molded parts.

Due to the high thermal stability of the flame-retardant additive of the present invention, it is possible to impart flame-retardant properties to a wide range of polyolefins and other polymer materials. Preferred polymer materials include low density poly(ethylene) (LDPE), poly(ethylene-ethyl acrylate) (EEA), poly(ethylene-acrylic acid) (EAA), poly(ethylene-vinyl

Art Unit: 1796

acetate) (EVA), poly(propylene) (PP), ethylenepropylene-diene monomers (EPDM) and copolymers thereof.

See claims 1, 16, 19 and 21, col. 2, lines 60-68, col. 3, line 62 through col. 4, line 2, col. 5, line 62 through col. 6, line 11 and col. 14, Example 10.

No patentable difference is readily ascertained between present and patented inventions.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 115-117 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhu et al as applied to claims 106-114 above, and further in view of Lindsay et al, US Patent No. 5,409,976.

Lindsay teaches the formation of cables from the patented compositions. The patented compositions are disclosed to comprise typical phosphorus sources such as melamine phosphate blended together with polyolefins. Formulation of a composition or cable insulation comprising the melamine phosphate and polyolefin of Lindsay at the weight amounts and ratios suggested by the either of the references would have been obvious to one of ordinary skill in the art at the time of applicant's invention. Since Lindsay et al teaches that cable insulation is formed from polyolefin material having intumescent compounds incorporated therein. Formulation of a cable

Art Unit: 1796

insulation from the compositions of Zhu et al would have also been obvious tone of ordinary skill in the art at the time of applicant's invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kriellion A. Sanders/

Primary Examiner, Art Unit 1796

Kriellion A. Sanders  
Primary Examiner  
Art Unit 1796

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